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DEVON A. ROLF
GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
OLATHE, KS 66062

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Scott Burgett et al :
Application No. 10/826,754 :
Filed: April 16, 2004 :
Attorney Docket No. 702.348 :

This is a decision on the petition filed, August 24, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.


The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 10, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 11, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020 extension of time submitted with the petition on August 24, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 24, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 3662 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions